

CHAPTER 101
SOLID WASTE COMPREHENSIVE PLANNING REQUIREMENTS

[Prior to 7/1/83, DEQ Ch 26]

[Prior to 12/3/86, Water, Air and Waste Management [900]]

567—101.1(455B,455D) Purpose, applicability and authority.

101.1(1) Purpose. The purpose of these rules is to provide general definitions and direction for comprehensive integrated solid waste management planning for every city and county of this state and to provide an orderly and efficient process for the assessment and collection of fees for the disposal of solid waste at a sanitary landfill.

101.1(2) Applicability. This chapter is intended to implement Iowa Code section 455B.306, subsection 1 through subsection 5, and subsection 6, paragraph “c,” and Iowa Code section 455D.3. All other parts and subsections of Iowa Code section 455B.306 shall be addressed in permitting rules.

101.1(3) Authority. The commission has the authority to adopt rules regarding comprehensive planning pursuant to Iowa Code sections 455B.304 and 455D.7.

567—101.2(455B,455D) Variances. The director may issue, modify, or deny variances from the rules in this chapter. The applicant may appeal the decision of the director to the commission.

567—101.3(455B,455D) Definitions. For the purpose of this chapter, the following definitions shall apply:

“*Comprehensive plan*” means a course of action developed and established cooperatively between cities, counties and sanitary disposal projects regarding their chosen integrated solid waste management system, its participants, waste reduction strategies, and disposal methods.

“*Comprehensive plan submittal—amendments*” means a notification, filed between plan updates, that the planning area seeks to change the participation or change the designated disposal projects as set out in the most recent approved plan submittal.

“*Comprehensive plan submittal—initial*” means a first or new comprehensive plan filed with the department of natural resources pursuant to the provisions of Iowa Code section 455B.306.

“*Comprehensive plan submittal—updates*” means a planning document that provides status reports on the integrated solid waste management system and describes revision to the information and evaluation of the integrated solid waste management system and the proposed course of action for the next six years.

“*Integrated solid waste management*” means any solid waste management system which is focused on planned development of programs and facilities that reduce waste volume and toxicity, recycle marketable materials and provide for safe disposal of any residuals.

“*Monogenerator facility*” means any permitted facility that accepts waste(s) from a sole generator that is also the owner/operator of the facility.

“*Monowaste facility*” means any permitted facility with special permit provisions which limit the site to a single solid waste including, but not limited to, coal combustion residue, construction and demolition debris, cement kiln dust or foundry sand.

“*Plan cycle*” means the length of time between each comprehensive plan submittal or each subsequent application for renewal of a previously issued permit. A plan cycle is typically three years in length.

“*Planning area*” means the local governments and sanitary disposal projects involved in any aspect of the sanitary disposal projects’ management of solid waste. A planning area may include one or more sanitary disposal projects.

“*Plan participants*” means any individual, group, government or private entity that has direct involvement in an integrated solid waste management system.

“*Private agency*” means an individual or any form of business organization authorized under the laws of this or any other state.

“*Public agency*” means any political subdivision of this state, including Iowa Code chapter 28E agencies.

“*Sanitary disposal project*” means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the executive director.

“*Service area*” means an area served by a specific sanitary disposal project defined in terms of the jurisdictions of the local governments using the facility. A planning area may include more than one service area.

“*Solid waste*” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials including, but not limited to, such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles as defined by Iowa Code section 321.1, subsection 90. However, division IV of Iowa Code chapter 455B does not prohibit the use of dirt, stone, brick, or similar inorganic material for fill, landscaping, excavation or grading at places other than a sanitary disposal project. Solid waste does not include hazardous waste as defined in Iowa Code section 455B.411 or source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979, or petroleum contaminated soil which has been remediated to acceptable state or federal standards.

567—101.4(455B,455D) Waste management hierarchy. The state’s waste management hierarchy is listed in descending order of preference:

1. Volume reduction at the source;
2. Recycling and reuse, including composting;
3. Other approved techniques of solid waste management including, but not limited to, combustion with energy recovery, combustion for waste disposal, and disposal in sanitary landfills.

567—101.5(455B,455D) Duties of cities and counties. Every city and county of this state shall, for the solid waste generated within the jurisdiction of its political subdivision, provide for the establishment and operation of an integrated solid waste management system consistent with the waste management hierarchy under rule 101.4(455B,455D) and designed to meet the state’s waste reduction and recycling goals. Integrated systems and sanitary disposal projects may be established separately or through cooperative efforts, including Iowa Code chapter 28E agreements as provided by law.

To meet these responsibilities, cities and counties may execute, with public and private agencies, contracts, leases, or other necessary instruments, purchase land and do all things necessary not prohibited by law for the implementation of waste management programs, collection of solid waste, establishment and operation of sanitary disposal projects, and general administration of the same.

If a city or county facility refuses any particular solid waste type for management or disposal it must identify another waste management facility for that waste within the planning area. In the case of special waste, if no other waste management facility for that waste type exists within the planning area, the city or county must, in cooperation with the waste generator, establish or arrange for access to one.

All cities and counties or Iowa Code chapter 28E agencies representing cities and counties shall demonstrate compliance with the provisions of this chapter by their participation in a comprehensive solid waste management plan approved by the department of natural resources.

567—101.6(455B,455D) Contracts with permitted agencies.

101.6(1) Every city, county, and other public agency which complies with the requirements of Iowa Code chapter 455B for the disposal of solid waste by means of a contract with an agency holding a sanitary disposal project permit or by means of a contract with a hauler that has a contract with an agency holding a sanitary disposal project permit shall submit to the department notification of that executed contract. All such agencies shall have on file at the department at all times a list of valid contracts. Notification of any renewal of the contract or any new or amended contract shall be submitted.

101.6(2) All public agencies which contract with a hauler to comply with the requirements of part 1 of division IV of Iowa Code chapter 455B shall include, as terms of that contract, a requirement that all solid waste collected by the hauler for that agency shall be disposed of or deposited at a sanitary disposal project designated within said agency's comprehensive plan in accordance with the rules of the department.

567—101.7(455B,455D) State volume reduction and recycling goals. The goal of the state is to reduce the amount of materials in the waste stream existing as of the July 1, 1988, baseline, 25 percent by July 1, 1994, and 50 percent by July 1, 2000, through the practice of waste volume reduction at the source and through recycling. The updated waste abatement calculations submitted by each comprehensive planning area shall be used by the department in reporting to the general assembly on the state's progress toward meeting the 25 and 50 percent goals. If at any time the department determines that a planning area has failed to meet the 25 percent waste volume reduction and recycling goal, the planning area shall, at a minimum, implement the solid waste management techniques listed in Iowa Code section 455D.3(4) and subrule 101.8(5). The specific methodology for determining goal progress is described in the "Guidelines for Solid Waste Comprehensive Plans: Integrated Solid Waste Management Systems" for goal progress calculations.

567—101.8(455B,455D) Types of comprehensive plan submittals to be filed. Public or private entities operating or planning to operate a sanitary disposal project in Iowa shall, in conjunction with all local governments using the sanitary disposal project, meet all comprehensive plan submittal requirements described in this rule. There are three types of comprehensive plan submittals: initial, updates, and amendments. The purpose of these plans is the development of a specific plan and schedule for implementing technically and economically feasible solid waste management methods that will prevent or minimize any adverse environmental impact and meet the state's volume reduction and recycling goals pursuant to rule 101.7(455B,455D).

Cities and counties planning to use a sanitary disposal project in Iowa must participate in a comprehensive plan with all other cities and counties using that sanitary disposal project. Cities and counties planning to use an out-of-state disposal facility or facilities must file a comprehensive plan that identifies the out-of-state facility or facilities used. Cities or counties not using a sanitary disposal project located in Iowa are still required to meet all comprehensive plan submittal requirements. The department shall act to coordinate and expedite planning activities for multicounty areas where feasible. The general requirements for updating comprehensive plans shall be submitted according to subrule 101.8(2).

A guidance document describing in more detail the content of a comprehensive plan is available from the records center of the department of natural resources at (515)281-8860. The guidance document is adopted by reference. The document title is "Guidelines for Solid Waste Comprehensive Plans: Integrated Solid Waste Management Systems" (September 1990) as revised March 19, 2001. "Guidelines for Solid Waste Comprehensive Plans: Integrated Solid Waste Management Systems" provides the comprehensive planning requirements that apply to composting, recycling, processing, monowaste, monogenerator, transfer station, and medical waste incineration facilities. Because these operations are specialized, some requirements contained in these rules may not apply to these operations.

101.8(1) *Content of an initial comprehensive plan.* In fulfillment of the requirements of Iowa Code section 455B.301A and Iowa Code chapter 455D, an initial comprehensive plan shall include the following information:

a. A description of the planning area and the public and private agencies involved in the integrated solid waste management system, including a description of each agency's role in managing solid waste generated in the area. An amendment to the plan is required prior to receiving or otherwise managing waste on an ongoing basis from outside the delineated planning area.

b. A resolution or resolutions from all local governments, or 28E agencies on behalf of local governments, and letters of cooperation from private sanitary disposal projects participating in the plan. The resolution shall include a statement that the plan participants have reviewed the plan and will adopt the implementation plan and schedule contained in the plan. Letters of cooperation from private agencies shall include a statement that they have reviewed the plan and support the waste reduction and recycling efforts outlined therein. The letter shall briefly summarize the implementation plan and schedule. If a local government included in the planning area refuses to provide a resolution, then that local government must prepare its own plan and is no longer considered to be in the original planning area. In such cases, the original plan may still be approved if it includes a brief addendum as outlined in "Guidelines for Solid Waste Comprehensive Plans: Integrated Solid Waste Management Systems" stating the effect of the change on the waste stream, but the sanitary disposal project(s) in the planning area may no longer accept waste from the local government that has withdrawn from the comprehensive plan. Private sanitary disposal projects failing to provide letters will be unable to receive a permit or permit renewal. If a city, county, or other public agency complies with comprehensive planning requirements by means of a contract(s) with an agency holding a sanitary disposal project permit or with a hauler(s) that has a contract(s) with an agency holding a sanitary disposal project permit, a list of those contracts shall be submitted as provided in rule 101.6(455B,455D).

c. A description of past local and regional planning activities.

d. A report of the baseline waste stream in total tons per year. Progress toward meeting the state's volume reduction and recycling goals pursuant to rule 101.7(455B,455D) shall be demonstrated through methods as described in "Guidelines for Solid Waste Comprehensive Plans: Integrated Solid Waste Management Systems."

e. A description of population, employment, and industrial production as of July 1, 1988.

f. A description of the current waste composition and waste generation rates and a projection of waste composition and generation spanning two plan cycles.

g. A description of the existing integrated waste management system, its capacity, disposal costs per ton, and projected disposal costs spanning two plan cycles.

h. An evaluation of the current integrated solid waste management system according to the state's waste management hierarchy. A complete analysis shall include a thorough evaluation of progress toward meeting the state's volume reduction and recycling goals. Plans shall use the base-year adjustment method for their waste abatement table to measure progress since 1988. The base-year adjustment method controls for population, employment and taxable sales so that related changes in a planning area's waste disposal are more accurately reflected in the calculation. The base-year adjustment method formula is included in "Guidelines for Solid Waste Comprehensive Plans: Integrated Solid Waste Management Systems."

i. A complete analysis of alternative waste management systems according to the state's waste management hierarchy shall include at a minimum:

(1) A detailed description of public participation and education programs for source reduction and recycling by both urban and rural residences, farms, businesses, and industries. Public education programs must address, at a minimum, household hazardous materials, tires, motor oil, lead-acid batteries, backyard composting, and methods of materials separation and recycling. The description of each public education program must include, but is not limited to:

1. Strategies, costs, and materials;
2. Public meetings during the planning and implementation stages and other forms of information dissemination, such as workshops and advertisements;
3. Time lines and a budget for public education activities.

(2) Details of local recycling programs containing a specific methodology for meeting the state waste volume reduction and recycling goals pursuant to rule 101.7(455B,455D) and a methodology for implementing waste separation programs including, but not limited to, glass, plastic, paper, and metal. The methodology must include, but not be limited to:

1. Public education strategies;
2. Public education materials;
3. A specific description of recycling activities already in place, including the names of groups conducting the activities;
4. The names of any local groups that will be involved in any recycling programs in the planning area.

(3) An examination of the following waste items for their existing and potential recyclability: motor oil, waste tires, lead-acid batteries, household batteries, plastics, newspapers, corrugated cardboard, textiles, office paper, construction materials, aluminum and steel cans, colored and clear glass, yard waste, animal wastes and other organic wastes, and white goods as described in "Guidelines for Solid Waste Comprehensive Plans: Integrated Solid Waste Management Systems."

(4) Detailed descriptions of programs developed to encourage backyard composting of yard waste and to investigate the feasibility of central composting facilities that will, at a minimum, include yard waste. These programs must include public education elements as detailed in 101.8(1)"i"(2) and identification of current and potential markets or outlets for any compost generated at a central composting facility. In addition, any compost generated at a centralized facility must be produced in accordance with standards established in Iowa Code section 455D.9 and 567—Chapter 105.

(5) If incineration for energy recovery or volume reduction is an alternative considered by one or more plan participants, then the plan must include the methodologies to remove recyclable and reusable material, material that will result in uncontrolled toxic or hazardous air emissions when burned, and hazardous or toxic materials which are not rendered nonhazardous or nontoxic by incineration.

(6) Description of expected environmental impacts from the alternative waste management systems including any negative impacts on water, groundwater, air quality, plant life, animal life, and human health.

(7) All new sanitary landfills or expansions that require a new permit or a permit amendment shall include:

1. A comprehensive listing of plant and animal species. In preparing the listing, the permit applicant shall contact the department's Iowa natural areas inventory with a request to search its records to determine the presence of or habitat for any threatened or endangered species or communities and any forests, prairies or wetlands. In the event that the department's Iowa natural areas inventory does not contain records of rare species or communities but their presence is suspected, the permit applicant may be required to conduct an approved site survey.

2. A determination of the presence of and assessment of the impact on any archaeologically, historically, or architecturally significant properties on the proposed site. To assess the impact, the permit applicant must consult with the historic preservation bureau of the Iowa state historical society.

(8) Inclusion of established and anticipated regulatory requirements regarding the future siting, operation, closure and postclosure of solid waste facilities.

(9) Completion of the cost analysis worksheets contained in “Guidelines for Solid Waste Comprehensive Plans: Integrated Solid Waste Management Systems.” This document is available upon request from the department.

(10) A financial plan detailing the actual cost of the sanitary disposal project, including the funding sources of the project and a description of the methods of financing to be used.

j. A specific plan and schedule spanning two planning cycles for implementing the comprehensive plan.

101.8(2) Comprehensive plan updates. After the initial plan has been approved, plan updates submitted by cities, counties or sanitary disposal projects are to be submitted on the schedule as detailed in “Guidelines for Solid Waste Comprehensive Plans: Integrated Solid Waste Management Systems.” In fulfillment of the requirements of Iowa Code section 455B.301A and Iowa Code chapter 455D, a plan update shall include the following information:

a. A description of the planning area and the public and private agencies involved in the integrated solid waste management system, including a description of each agency’s role in managing solid waste generated in the area. An amendment to the plan is required prior to receiving waste on an ongoing basis from outside the delineated planning area.

b. A resolution or resolutions from all local governments, or 28E agencies on behalf of local governments, and letters of cooperation from private sanitary disposal projects participating in the plan. The resolution shall include a statement that the plan participants have reviewed the plan and will adopt the implementation plan and schedule contained in the plan. Letters of cooperation from private agencies shall include a statement that they have reviewed the plan and support the waste reduction and recycling efforts outlined therein. The letter shall briefly summarize the implementation plan and schedule. If a local government included in the planning area refuses to provide a resolution, then that local government must prepare its own plan and is no longer considered to be in the original planning area. In such cases, the original plan may still be approved if it includes a brief addendum as outlined in “Guidelines for Solid Waste Comprehensive Plans: Integrated Solid Waste Management Systems” stating the effect of the change on the waste stream, but the sanitary disposal project(s) in the planning area may no longer accept waste from the local government that has withdrawn from the comprehensive plan. Private sanitary disposal projects failing to provide letters will be unable to receive a permit or permit renewal. If a city, county, or other public agency complies with comprehensive planning requirements by means of a contract(s) with an agency holding a sanitary disposal project permit or with a hauler(s) that has a contract(s) with an agency holding a sanitary disposal project permit, a list of those contracts shall be submitted in addition to the letters of cooperation.

c. A description of past local and regional planning activities since the most recent plan update.

d. A report of the baseline waste stream in total tons per year. This baseline data and landfill tonnage information for the most recent completed fiscal year will be used to demonstrate progress toward meeting the state’s volume reduction and recycling goals pursuant to rule 101.7(455B,455D) through methods as described in “Guidelines for Solid Waste Comprehensive Plans: Integrated Solid Waste Management Systems.”

e. A description of changes in population, employment, and industrial production since the last approved plan.

f. A description of changes in waste composition and waste generation rates since the last approved plan.

g. A description of the existing integrated waste management system, its capacity, disposal costs per ton, and projected disposal costs per ton spanning two plan cycles.

h. An evaluation of the current integrated solid waste management system according to the state's waste management hierarchy. A complete analysis shall include a thorough evaluation of progress toward meeting the state's volume reduction and recycling goals. Plans shall use the base-year adjustment method for their waste abatement table to measure progress since 1988. The base-year adjustment method controls for population, employment and taxable sales so that related changes in a planning area's waste disposal are more accurately reflected in the calculation. The base-year adjustment method formula is included in "Guidelines for Solid Waste Comprehensive Plans: Integrated Solid Waste Management Systems."

i. An analysis of alternatives to the existing waste management system according to the state's waste management hierarchy, as detailed in paragraph 101.8(1)"*i*," excluding the cost analysis worksheets and financial plan. This analysis should incorporate the review of the existing system and alternative waste management methods not currently employed by the planning area. Reference should be made to "Guidelines for Solid Waste Comprehensive Plans: Integrated Solid Waste Management Systems" for goal progress calculations.

j. A description of potential changes to the waste management system for the planning area based upon the results of the alternatives analysis.

k. A specific plan and schedule spanning two planning cycles for implementing the comprehensive plan.

101.8(3) Comprehensive plan amendments. If a sanitary disposal project or city or county requests to be included in a planning area after completion of a plan but before a plan update is due, and the planning area agrees to include the sanitary disposal project, city or county, the following procedure is required:

a. A letter must be submitted to the department by the facility operator describing the facility's operation and the amount of waste to be managed, or by the city or county describing that local government's intention to participate in the specified comprehensive plan.

b. A letter must be submitted to the department by the planning area's responsible agency agreeing to accept the city, county, or sanitary disposal project in its planning area and stating how the change will affect the planning area's waste stream, including an explanation of the change in the planning area, the amount of waste involved and details of waste reduction and recycling efforts that will be implemented in new communities.

c. The next plan update submitted by the planning area shall include the city, county or sanitary disposal project.

d. If the plan amendment seeks to modify the planning area's population or disposal tonnage at a disposal facility within the planning area by greater than 30 percent or seeks to change the disposal method of the planning area, an initial plan must be filed.

101.8(4) Plan review. Any planning document submitted in accordance with rule 101.8(455B,455D) shall be reviewed by the department for its accuracy, completeness, and appropriateness of baseline data and alternatives analysis, for the environmental and economic feasibility of selected waste management systems, for the plan's adherence to the state's waste management hierarchy, for compliance with statutory deadlines, and for the agency's commitment to public education and adequate financing. The director may reject, suggest modification of, or approve a plan based upon these criteria.

No initial, updated or amended submittal will be approved if the planning area, including all participating permitted sanitary disposal projects, is not in compliance with all applicable solid waste regulations or with a compliance schedule.

101.8(5) *Failure to meet the 25 percent waste volume reduction and recycling goal.* If at any time the department determines a planning area has failed to meet the 25 percent waste volume reduction and recycling goal, the planning area shall, at a minimum, implement the following solid waste management techniques as required by Iowa Code section 455D.3(4). Evidence of implementation of these solid waste management techniques shall be documented in updated comprehensive plans submitted to the department.

a. Develop draft ordinances no later than six months after the date of the goal progress approval letter issued by the department. Ordinances shall be enacted and implemented no later than 12 months after the date of the goal progress approval letter. Local governments are charged with the responsibility for establishing collection fees that are based on volume or on the number of containers used for disposal by residents.

b. Conduct an educational and promotional program to inform citizens of the manner and benefits of reducing, reusing, and recycling materials and the procurement of products made with recycled content. The program shall include the following:

(1) Targeted waste reduction and recycling education for residents, including multifamily dwelling complexes having five or more units.

(2) An intensive one-day seminar for the commercial sector regarding the benefits of and opportunities for waste reduction and recycling.

(3) Promotion of recycling through targeted community and media events.

(4) Recycling notification and education packets to all new residential, commercial, and institutional collection service customers that include, at a minimum, the manner of preparation of materials for collection and the reasons for separation of materials for recycling.

c. Notify the public of the planning area's failure to meet the waste volume reduction goals of this chapter.

(1) The planning area shall notify the public using the following standard language:

PUBLIC NOTIFICATION

(insert NAME OF SOLID WASTE PLANNING AREA)

The Iowa General Assembly mandated that the amount of waste landfilled as of July 1, 1988, be reduced 25 percent by July 1, 1994, and 50 percent by July 1, 2000, through source reduction and recycling activities.

The (insert name of solid waste planning area) did not meet the state's 25 percent waste reduction and recycling goal and is now required to implement a number of waste management techniques.

Because the (insert name of solid waste planning area) did not meet the 25 percent goal, landfill users will pay 50 cents per ton in addition to the state solid waste fee of \$4.25 per ton of material landfilled. This additional fee will be applied until the (insert name of solid waste planning area) demonstrates it has attained the goal. In contrast, those planning areas meeting the goal may subtract 50 cents per ton from the state solid waste fee.

The (insert name of solid waste planning area) must also do the following:

1. Develop draft ordinances to be used by local governments for establishing fees that are based on volume or on the number of containers used for disposal by residents;

2. Conduct an educational and promotional program to inform citizens of the manner and benefits of reducing, reusing, and recycling materials and the procurement of products made with recycled content. The program will include:

- Targeted waste reduction and recycling education for residents, including multifamily dwelling complexes having five or more units;

- An intensive one-day seminar for the commercial sector regarding the benefits of and opportunities for waste reduction and recycling;

- Promotion of recycling through targeted community and media events;
- Recycling notification and education packets to all new residential, commercial, and institutional collection service customers that include, at a minimum, the manner of preparation of materials for collection and the reasons for separation of materials for recycling.

Everyone — businesses, industries, schools, governments, and citizens — must work together to reduce the amount of valuable resources being landfilled.

To find out how you can help reduce waste and participate in the activities listed above, please contact (insert name of contact person) at (insert number of contact person).

The (insert name of solid waste planning area) includes (insert names of participating local governments - cities and counties).

(2) The planning area shall notify the public using the following procedures:

1. Publication of the notice in not less than a one-quarter page format in a daily newspaper(s) of general circulation in each county within the planning area as soon as possible, or within 60 days from the date the department notifies the planning area that it has failed to meet the 25 percent waste volume reduction and recycling goal.

2. If counties served by the planning area are not served by a daily newspaper(s) of general circulation, notice shall instead be given by publication in a weekly newspaper(s) of general circulation in each county within the planning area.

3. Copies of the public notice shall also be mailed with a news release to all television and radio stations with coverage in the planning area as soon as possible, but in no case later than 60 days after May 23, 2001, or within 60 days from the date the department notifies the planning area that it has failed to meet the 25 percent waste volume reduction and recycling goal.

(3) The planning area shall submit to the department, within 30 days from the date of publication of the public notice, proof of publication from the newspaper(s) used to satisfy this requirement.

The planning area shall also submit to the department, within 30 days from the date of mailing, the public notice and news release, a copy of the news release and a list of the television and radio stations that were mailed the public notice and news release.

d. Remit 50 cents per ton to the department as outlined in subrule 101.9(3).

567—101.9(455B,455D) Fees for disposal of solid waste at sanitary landfills.

101.9(1) Authority, purpose and applicability.

a. *Authority.* Pursuant to Iowa Code section 455B.310, the department has authority to collect fees for the disposal of solid waste at sanitary landfills. All tonnage fees received by the department under this rule shall be deposited in the solid waste account of the groundwater protection fund created under Iowa Code section 455E.11(1).

b. *Purpose.* The purpose of this rule is to provide an orderly and efficient process for the assessment and collection of fees for the disposal of solid waste at a sanitary landfill. This rule clarifies the applicability of the fees and sets forth a fee schedule, means of filing, and record-keeping requirements.

c. *Applicability.* Except as provided in subrule 101.9(2), operators of all sanitary landfills located within Iowa and subject to the permitting requirements of the department shall pay a fee for each ton of solid waste disposed of in the landfill.

101.9(2) Exclusions.

a. The fees specified in subrule 101.9(3) do not apply to construction and demolition waste disposed of in an area of a sanitary landfill that has been designated exclusively for the disposal of construction and demolition waste on plans and specifications approved by the department or to solid waste disposal facilities with special permit provisions which limit the site to the disposal of landscape waste, coal combustion waste, cement kiln dust, construction and demolition waste, foundry sand or solid waste materials approved by the department for lining or capping or constructing berms, dikes or roads in the project.

b. Fees do not apply to wastes which will not be buried at a sanitary landfill if such material is salvaged or recycled in accordance with the provisions of the landfill permit.

101.9(3) Fee schedule.

a. The tonnage fee is \$4.25 per ton of solid waste.

b. If at any time the department determines that a planning area has met or exceeded the 25 percent goal, a planning area shall subtract 50 cents from the total amount of the tonnage fee imposed starting with the next scheduled fee payment.

c. If at any time the department determines that a planning area has met or exceeded the 50 percent goal, the planning area shall subtract \$1 from the total amount of the tonnage fee imposed starting with the next scheduled fee payment.

d. If at any time the department determines that a planning area has failed to meet the 25 percent goal, a planning area shall remit 50 cents per ton to the department starting with the next scheduled fee payment. Moneys under this paragraph shall be remitted until such time as evidence of attainment of the 25 percent goal is documented in comprehensive plan updates submitted to the department.

e. Fifty cents of the tonnage fee shall be retained by the sanitary landfill operator and shall be used to meet comprehensive planning requirements, the development of a closure or postclosure plan, the development of a plan for the control and treatment of leachate including the preparation of facility plans and detailed plans and specifications and the preparation of a financial plan or for other environmental protection activities.

f. Forty-five cents of the tonnage fee shall be retained by the sanitary landfill operator. The funds shall be distributed to a city, county, or public agency served by the sanitary disposal project. Fees collected by a private agency which provides for the final disposal of solid waste shall be remitted to the city, county, or public agency served by the sanitary disposal project. However, if a private agency is designated through a contract to develop and implement the comprehensive plan, these funds shall be retained by the private agency. Any tonnage fees retained pursuant to this paragraph shall be used for implementation of programs and services designed to satisfy the waste reduction and recycling requirements of comprehensive plans for cities, counties, or public agencies served by the sanitary disposal project.

(1) In addition to the 45 cents retained as described in 101.9(3) "f," 25 cents shall be retained if the sanitary landfill required to pay the tonnage fee under this paragraph has an approved updated comprehensive plan on file with the department. Any tonnage fees retained pursuant to this subparagraph shall be used as described in 101.9(3) "f."

(2) In addition to the 45 cents retained as described in 101.9(3) "f," 10 cents shall be retained if the sanitary landfill's planning area meets the statewide goal progress average, as determined by the department on July 1, 1999. The sanitary landfill operator shall retain the additional 10 cents of the tonnage fee regardless of whether the planning area subsequently fails to meet the statewide average. Any tonnage fees retained pursuant to this subparagraph shall be used as described in 101.9(3) "f."

g. For purposes of assessing this fee, sanitary landfills shall utilize scales and base the fee assessment on the net scale weight of solid wastes disposed of at the landfill during the reporting period.

h. If special conditions existing at a sanitary landfill make it impractical to use the landfill's scales to determine waste tonnages, the landfill may propose for department review and approval of an alternate method for determining the weight of disposed solid waste.

101.9(4) Form, manner, time and place of filing.

a. Form. Any person to whom this rule applies shall file a completed Form 98, Quarterly Solid Waste Fee Schedule and Retained Fees Report, supplied by the department as specified in subrule 101.9(3).

b. Manner, time and place. Fees are to be paid on a quarterly basis. The fees and report on retained fees will be due January 1, April 1, July 1, and October 1 for the quarters ending September 30, December 31, March 31 and June 30, respectively. The person shall present or mail the completed form with the appropriate fees to Accounting, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319.

101.9(5) Reporting and record keeping.

a. Operating records. Those sanitary landfill operators who are subject to the fee assessment requirements of this rule shall maintain adequate records to determine and document the weight of solid waste received at and disposed of in the sanitary landfill during the calendar year.

b. All records used in determining the solid waste fee assessment must be kept for a period of at least three years from the end of the calendar year which the records represent.

c. All records required under this rule must be furnished upon request, and made available at all reasonable times for inspection, to any officer, employee, or representative of the department who is duly designated by the director.

101.9(6) Failure to pay fees. If it is found that a person has failed to pay the fees assessed by this rule, the director shall enforce the collection of the delinquent fees. A person required to pay fees as required by Iowa Code section 455B.310 who fails or refuses to pay the fees by the due date shall be assessed a penalty of 2 percent of the quarterly fee due to be assessed on January 2, April 2, July 2, and October 2, and on the first day of each month thereafter, on a monthly basis until paid. A person required to retain fees as required by Iowa Code section 455B.310 who fails or refuses to report the use of the retained fees by the due date shall be assessed a penalty of 2 percent of the retained fees due to be assessed on January 2, April 2, July 2, and October 2, and on the first day of each month thereafter, on a monthly basis until paid. The penalty shall be paid in addition to the fees due.

These rules are intended to implement Iowa Code sections 455B.303 and 455B.306 and Iowa Code chapter 455D.

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